IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.16 OF 2007

Manorama Keshav Joshi. ..Applicant.

V/s.

Anand Arun Joshi & Ors. ..Respondents.

Mr.Nayana Thatte for applicant.

Mr.K.S.Dewal for respondent No.1.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 21, 2007.

P.C. :

1. Heard counsel for the parties.

2. Preliminary objection is raised on behalf of the respondent No.1 about maintainability of this revision application. According to the respondent No.1, the order which is impugned in the present revision application, passed by the Registrar, is not ascribable to any of the powers to be exercised by the Registrar under the Rules; but the same has been passed pursuant to the directions given by the learned Single Judge of this Court on 4th October, 2006. It is submitted that the order passed by the Registrar is in fact in terms of the order of this Court which refers to section 33(2)(b) of the Bombay

Stamp Act, which power was delegated to the Registrar. If it is so, no revision against such order of the Registrar is available. There is substance in this submission.

3. Counsel for the applicant however, relies on the provision of Chapter 2 Rule 7 and Chapter 1 Rule 2(i)(f) to contend that any order passed by the Registrar is amenable to the revisional jurisdiction of this Court. Besides, reliance is placed on provisions of Chapter 2 Rule 4(9), which authorises the Registrar to call for report from Subordinate Court regarding valuation of any property. This argument clearly overlooks that the impugned order is not ascribable to the order to be passed by the Registrar in terms of provision of the Rules, but is one on account of direction of this Court in terms of the order dated 4th October, 2006. Accordingly, the revision application should fail on this count alone.

4. Assuming that the revision was maintainable, on going through the order passed by the Registrar, which is impugned in this revision, I have no hesitation in taking the view that the approach adopted by the Registrar is proper and the only possible way in which the issue of valuation of the

property could be resolved. The Registrar has rightly taken into account Government valuation, as declared for the area coming within the Municipal Council, Panvel, which operated for the period between 1st January, 2002 to 31st December, 2002. This is so because agreement in question is executed on 19th September, 2002.

5. Counsel for the applicant however, contends that the said basis is incorrect and in any case, the Registrar was obliged to call for the report from subordinate Court before passing the order. The purport of the provision in Chapter 2 Rule 4(o) of the Appellate Side Rule is only an enabling provision. If there was clear material on record before the Registrar to determine valuation of the suit property, it was not necessary for the Registrar to call for such report. Thus understood, there is no substance in this revision. The same should fail. Hence dismissed.